



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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Jamestown, RI 02835

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Public Hearing Summary Document

May 18, 2005 at 6 PM

**URI Narragansett Bay Campus
Corless Auditorium**

1. Proposed changes to RI lobster management in order to comply with the Atlantic States Marine Fisheries Commission Addendum VII to Amendment 3 to the Interstate Fishery Management Plan for Lobster

The public has been afforded the opportunity to comment on the proposals contained in this document at the public hearing scheduled for Thursday, May 18, 2006 (6 PM) at the URI Narragansett Bay Campus, Corless Auditorium or by submitting written comments to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 no later than 12:00 p.m. on May 18, 2006. Underlined and bold font indicates new language and crossed out font denotes existing language proposed for elimination.

- 1) **Proposed changes to RI lobster management in order to comply with the Atlantic States Marine Fisheries Commission Addendum VII to Amendment 3 to the Interstate Fishery Management Plan for Lobster:**

15.11.1 - Minimum Size of Lobsters – No person shall catch or take from any of the waters within the jurisdiction of this state or have in their possession within this state any lobster or parts of lobsters, cooked or uncooked, which is less than the minimum gauge sizes as specified in this section, measured from the rear of the eye socket along a line parallel to the center line of the body shell to the rear end of the carapace, unless said person possesses a Lobster Exemption Certificate issued by the Director consistent with the requirements of 15.11.1-1 or 15.11.1-2.

As of July 1, 2003 the minimum gauge size shall be 3-3/8 inches (85.73mm).

~~**As of July 1, 2006 the minimum gauge size shall be 3-7/16 inches (87.31mm).**~~

~~**As of July 1, 2007 the minimum gauge size shall be 3-15/32 inches (88.11mm).**~~

~~**As of July 1, 2008 the minimum gauge size shall be 3-1/2 inches (88.90mm).
RIMF REGULATION [Penalty – Part 3.3 (RIGL 20-3-3)]**~~

15.14.2 – Area 2 Lobster Trap Effort Control

This regulation is promulgated in order for the State to come into compliance with Addendum VII to Amendment 3 to the Interstate Fishery Management Plan for American Lobster as adopted by the Atlantic States Marine Fisheries Commission which replaces the ASMFC Addendum VI Area 2 Effort Control measures in section 2.1 of Addendum VI to Amendment 3 of the Interstate Fishery Management Plan for American Lobster.

15.14.2-1 – Trap Allocation Authority

- (a) The State of Rhode Island Department of Environment's Division of Fish & Wildlife (RIDEM) shall be the trap allocation authority for Rhode Island residents, both state-licensed and federally-permitted, shall process resident Area 2 trap allocation applications, and shall determine trap allocations for eligible Area 2 licenses/permit holders. For dual state license/federal permit holders, the RIDEM shall forward through the Director all proposed Area 2 federal EEZ allocations to National Marine Fisheries Service (NMFS) for its consideration, along with the RIDEM's rationale in setting the allocation at the proposed level.
- (b) The RIDEM and NMFS shall ensure Rhode Island vessels and/or license/permit holders do not receive duplicate allocations from different jurisdictions for the same catch history.
- (c) In the event of a discrepancy between agency-proposed allocations for Area 2, the dual permit holder is restricted to fishing the lesser of the two lobster trap allocations, until a final determination is rendered resolving the discrepancy.

15.14.2-2 – Eligibility for Area 2 Lobster Trap Allocation

- (a) There shall be no new state-issued commercial lobster licenses issued after December 31, 2003.
- (b) Any valid license/permit holder seeking an Area 2 lobster trap allocation or multiple Area 2 lobster trap allocations must make an application to the RIDEM for each Area 2 lobster trap allocation being sought, on forms provided by RIDEM, prior to the determination of Initial Lobster Trap Allocation. The application period for consideration of an Initial Area 2 lobster trap allocation shall be June 1 – September 30, 2006. Recreational (non-commercial) lobster trap license holders shall be exempt from the Area 2 trap allocation process.
- (c) To be eligible for an Area 2 lobster trap allocation, Area 2 trap allocation applicants must present documentation to the trap allocation authority, establishing to the authority's satisfaction that said applicant lawfully harvested lobsters via lobster traps in Area 2 during the years 2001-2003.

Any Area 2 trap allocation applicant who held a license endorsed for Area 2 during the years 2001-2003, but did not renew their license or possess a valid commercial lobster licenses at any point during 2001-2003 or thereafter, shall not be eligible for an Area 2 trap allocation. Holders of a Federal Lobster Permit endorsed for Area 2 may add or drop the Area 2 designation from their Federal Lobster Permit annually, at the time of permit renewal.

Exception: Any Area 2 trap allocation applicant who holds a current commercial lobster license or landing permit and who held such authorization during the period 2001-2003 but had no documented, or had reduced fishing performance during 2001-2003 due to documented medically-based impairment or military service (as those terms are defined in Section 1-3 definition of Terms) may request his/her Initial Lobster Trap Allocation be based on their 1999-2000 fishing performance in Area 2, in accordance with the provisions in section 15.14.2-5.

- (d) No person shall land lobster taken commercially by lobster traps from Area 2 in any state unless that person has been issued an Area 2 lobster trap allocation.

15.14.2-3 – Initial Area 2 Trap Allocations

- (a) Initial Area 2 lobster trap allocations shall be based on reported lobster landings and reported traps fished in the RIDEM lobster catch/effort logbooks (logbooks) and/or the federal Vessel Trip Reports (VTR) during the qualifying years 2001-2003, and shall be the highest value of “Effective Traps Fished” during any year of the 2001-2003 qualifying period. Area 2 lobster trap allocation applicants are required to submit further information as requested by the trap allocation authority should discrepancies arise among documentation for qualification and allocation.
- (b) The Director may make a correction to an Area 2 Trap Allocation applicant’s Initial Trap Allocation if the applicant did not purchase and use valid lobster trap tags for any period used in the trap allocation determination, or, if after an RIDEM review, the reported values for traps fished or poundage are determined to be false. Any Area 2 Trap Allocation applicant who submits fraudulent documentation may have the allocation permanently revoked.
- (c) “Effective Traps Fished” is the lower value of (1) the maximum number of traps calculated or reported fished for a year (“Reported Traps Fished”); and (2) the predicted number of traps that is required to catch the reported poundage of lobsters for a year (“Predicted Traps Fished”), as defined in ASMFC Addendum VII and approved by the ASMFC Lobster Management Board. In no case would an Area 2 Trap Allocation

applicant's initial trap allocation exceed their maximum number of traps fished during the qualifying period, 2001-2003. An individual's Initial Area 2 Lobster Trap Allocation is determined as follows:

1. "Reported Traps Fished" are determined from the maximum number of traps reported as fished annually, for the years 2001-2003, from recent state-issued logbook reports and/or federal Vessel Trip Reports (VTR's).
 2. "Predicted Traps Fished" is calculated for 2001, 2002, and 2003 from the total reported landings and maximum number of traps reported fished in each of those years, using the established regression relationship for LMA Area 2. The allocations shall be calculated consistent with the Addendum VII Regression Curves, a copy of which designated Addendum VII Regression Curves is attached hereto and incorporated herein.
 3. "Predicted Traps Fished" and the "Reported Traps Fished" are compared for each year and the lower value would be the "Effective Traps Fished" for each year.
 4. Initial Area 2 Lobster Trap Allocation is the highest value of the three annual (2001-2003) "Effective Traps Fished" values.
- (d) Lobster landings must have occurred at a port located within Area 2 or in a state adjacent to Area 2 (i.e., Massachusetts, Rhode Island, Connecticut, and New York).
- (e) The maximum initial Area 2 lobster trap allocation shall be no more than eight hundred (800) lobster traps for each qualifying Area 2 lobster trap fishing history.

15.14.2-4 – RIDEM Rules Governing Lobster Trap Allocation Transfers and Lobster Trap Business Sales

Regulations providing for transferability of Area 2 and Area 3 trap allocation shall be promulgated by the RIDEM consistent with ASMFC Addendum IX, which is currently under consideration, but has not been finalized.

15.14.2-5 – Appeal of Initial Area 2 Trap Allocations

- (1) Any person who seeks an adjudicatory hearing relative to license and permit appeals arising under these rules and regulations must file said request in writing with the clerk of the RIDEM Administrative Adjudication Division, 235 Promenade Street, Providence, RI 02908 within thirty (30) calendar days of receipt of the original agency action.
- (2) During the time period from which an appeal has been filed with the Administrative Adjudication Division (AAD) until a final determination has been rendered by the AAD, the appellant shall be restricted to fishing the

Initial Trap Allocation number determined by RIDEM under the provisions of section 15.14.2-3.

- (3) Data Disputes – Prior to filing a request for a formal AAD hearing, the RIDEM shall be responsible for resolution of data disputes. Area 2 Trap Allocation applicants may request corrections to qualifying data if errors are found attributable to data entry and mathematical errors in logbook or landing reports. State-issued recall-log catch reports and/or logbooks signed by the license/permit holder are considered the best available data. Therefore, logbooks or catch reports for the qualifying period which have been signed by the Area 2 Trap Allocation applicant shall not be allowed to be contradicted by the furnishing of additional catch/effort data that is inconsistent with records already furnished to state and federal government. The request for an informal data dispute resolution with the RIDEM does not extend or in any way effect the thirty (30) day period for filing a formal written request for an adjudicatory hearing with AAD pursuant to Part 15.14.2-5(1).
- (4) Medical / Military Service Hardships – Any applicant who holds a current commercial lobster license and who held such authorization during the period 2001-2003 but had no documented, or had reduced, fishing performance during 2001-2003 due to documented medically-based impairment or military service (as those terms are defined in Section 1-3 Definition of Terms) may appeal for request his/her an Initial Lobster Trap Allocation be based on their 1999-2000 fishing performance in Area 2, in accordance their fishing performance (lobster landings and maximum number of traps reported fished) for the years 1999-2000 be employed to calculate the applicant's initial Area 2 lobster trap allocation.

The qualifying period used to determine the allocation of traps shall be based on 2001 – 2003 actions:

- a. An applicant must present to the RIDEM, written documentation that a governmental agency(ies) has rendered a final agency decision that the applicant suffered a material incapacitation during the period 2001-2003. Such documentation shall include the date of the year and the material incapacitation, which must be notarized as original at the time that the appeal is presented.
- (1) An applicant must present to the RIDEM, written documentation establishing that the applicant either served on active duty of one hundred eighty (180) or more days during the years 2001-2003 in the Army, Navy, Air Force, Marines, or Coast Guard of the United States; or as a member of a national guard or reserve component of the same which has been activated by order of the Department of Defense.
- b. Individuals who qualify under these requirements may use landings from any year or years (highest or the average) during the years

1999 and 2000 as the basis for their allocation, provided that the individual must also have landed lobsters with traps during 2004, and must have possessed a state or federal commercial fishing vessel registration and/or a state commercial fishing license or federal lobster permit to land lobster continuously during the period 1999-2004.

- c. The determination of individual trap allocations will be based on data for the year or years used by the applicant for his landings. (This means that higher landings are needed for the same number of traps if the year chosen is a more productive year.) The accuracy of the individual landings used to allocate traps will be verified by RIDEM prior to that agency certifying an allocation of trap tags.
- d. Appeals of Initial Area 2 Lobster Trap Allocations will be considered only during the period of July-October 2006.

15.14.2-6 – Establishment of Area 2 fishery-wide Overall Trap Allocation Cap

This Area 2 fishery-wide overall lobster trap cap shall be subject to ASMFC Lobster Management Board (Board) approval and constitutes the maximum number of traps allocated among all permit holders fishing in Area 2 from states of RI, MA, CT, NY, and NJ, and any other state with verifiable landings based on the documentation criteria established. The Area 2 Lobster Trap Allocation Cap includes lobster traps granted through any appeal process established by Addendum VII.

15.14.2-7 – Trap Reductions

- 1. If initial Area 2 Overall Trap Allocations exceed the Board-approved Area 2 Trap Allocation Cap, then all Area 2 trap allocations shall be reduced, in subsequent years, by reducing each license/permit holder's trap allocation by an equal percentage to reach the Trap Allocation Cap.
- 2. 2. If, after a stock assessment is completed, and further Area 2 trap reductions or increases are determined to be warranted, each Area 2 license/permit holder's trap allocation may be reduced or increased by an equal percentage (fishery-wide) to meet fishing mortality goals.

15.20.3 ASMFC Lobster Fishery Management Area Management Measures

- 2. Lobster Fishery Management Area 2 (Inshore Southern New England) –
 - A. Minimum Gauge Size – The minimum gauge size for American lobster in LFMA 2 shall be no lower than the carapace length identified in the following schedule (RIMFC Regulation 15.11). July 1st is the deadline for implementing these minimum gauge size increases.

YEAR	AREA 2
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2001	3-9/32"	(83.34 mm)
2002	3-5/16"	(84.14 mm)
2003	3-3/8"	(85.72 mm)
2004	No minimum gauge size increase for Area 2	
2006	3-7/16"	(87.31 mm)
2007	3-15/32"	(88.11 mm)
2008	3-1/2"	(88.90 mm)

B. Maximum Gauge Size – There is currently no maximum gauge size for American lobster in LFMA 2.

C. Minimum Escape Vent Size – For any person or vessel permitted or declared to fish in LFMA 2, all lobster traps fished in LFMA 2, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular escape vents according to the following schedule:

December 31, 2004 is the deadline for implementing the new circular escape vent size (2-5/8 inches).

~~July 1, 2008 is the deadline for implementing the scheduled escape vent size increases for both rectangular and circular escape vents.~~

YR	One (1) Rectangular Escape Vent	Two (2) Circular Escape Vents
2003	2 inches by 5-3/4 inches	2-1/2 inches
2004	2 inches by 5-3/4 inches	2-5/8 inches
2008	2-1/16 inches by 5-3/4 inches	2-11/16 inches

D. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a volume of greater than 22,950 cubic inches in LFMA 2 (RIMF Regulation 15.12.2).

E. Prohibition on possession of V-Notched female American lobsters – It shall be unlawful for any person or vessel permitted or declared to fish in LFMA 2 to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. V-notched female lobster means any female lobster bearing a v-shaped notch (i.e. a straight-sided triangular cut without setal hairs, at least ¼ inch in depth and tapering to a sharp point) in the flipper next to and to the right of the center flipper, as viewed from the rear of the female lobster. V-notched female lobster also means any female lobster which is mutilated in such a manner as to hide, obscure, or obliterate such a mark. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination (RIMFC Regulation 15.20.2).

F. Mandatory V-Notching Requirements – There are currently no mandatory V-notching requirements for any person or vessel permitted and declared to fish in LFMA 2.

G. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

H. Area 2 Effort Control Measures:

~~**(1) Vessel Upgrade Provision:**~~

~~All vessels or persons authorized to fish for lobster with traps in Area 2 shall be limited to a 15% increase in length from the established baseline registration length (LOA) (15.20.4(3)). There shall be no restrictions on decreases in vessel length.~~

~~**(2) Qualification and Trap Allocations for Area 2 permit holders:**~~

~~There shall be no new Area 2 Federal lobster permits or state-issued commercial lobster licenses after December 31, 2003.~~

~~In order to qualify for an Area 2 permit/license endorsement, a permit/license holder must document lobster trap landings between January 1, 1999 and December 31, 2003. Lobster trap landings during this period of 2000 pounds or more in any one year qualifies the permit/license holder for 800 traps; landings during this period of 1 – 1999 pounds in any one of these years qualifies the permit/license holder for 100 traps.~~

~~**(3) Maximum Allowable Traps:**~~

~~Permit/license holders can buy traps from other fishermen to a maximum of 800 traps.~~

(4) Minimum Gauge Size:

The minimum size for American lobster in management Area 2 shall be no lower than the carapace length identified in the following schedule. Carapace length is the straight-line measurement from the rear of the eye socket parallel to the centerline of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster. July 1st is the deadline for implementing these minimum gauge sizes.

<i>Area 2</i>
2006 – 3 7/16"
2007 – 3 15/32"
2008 – 3 1/2"

(5) Escape Vent Size Management Measures:

Each minimum gauge size has a corresponding rectangular and circular vent size. When a LCMA has an increase in the minimum gauge size, the corresponding vent size changes are required at the same time. For those areas that have already implemented a 3-3/8" minimum gauge size, the increase in

circular vent size would be required by December 31, 2004. The changes and/or additions to previous ASMFC measures are highlighted in bold and italics.

Minimum Gauge Size	Rectangular Vent	Circular Vent
3-1/4"	1-15/16" x 5-3/4"	2-7/16"
3-3/8"*	2" x 5-3/4"	2-5/8"
3-1/2"	2-1/16" x 5-3/4"	2-11/16"

* The Area 1 plan maintains a 3-1/4" minimum gauge size and adds a 2" x 5-3/4" rectangular vent and corresponding circular vent to be implemented in 2007 if necessary.

1.3 – Definition of Terms.

Reported Traps Fished: the maximum number of lobster traps reported fished in Area 2 during the years 2001-2003 from state-issued logbook reports and/or federal Vessel Trip Reports (VTR's).

Predicted Traps Fished: the value calculated for the years 2001, 2002, and 2003 from the reported total landings and the maximum number of lobster traps reported fished annually during each year of the years 2001-2003 using the established regression relationship for LMA Area 2. (Reference to ASMFC Lobster FMP, 2005)

Effective Traps Fished: the value used in the Initial Area 2 Trap Allocation determination that was calculated in the assessment of each eligible license holder's annual lobster fishery performance for the years 2001-2003. For each year that lobster landings and maximum traps fished were reported, Effective Traps Fished is the lower value of the maximum number of lobster traps reported fished for the year and the typical number of lobster traps (Predicted Traps Fished) required to catch the reported poundage of lobsters for the year.

Initial Area 2 Trap Allocation: the number of lobster traps assigned to a state-issued commercial lobster license holder or federal lobster permit holder endorsed for Area 2, plus or minus any lobster traps allocated through the Lobster Trap Transfer and Lobster Trap Business Sales process outlined in section 15.14.2-4.

Material Incapacitation: means an individual who had a physical or mental impairment and received (1) social security disability benefits (SSDI); and/or (2) supplemental security income benefits (SSI); and/or 100% disabled benefits from the U.S. Department of Veteran Affairs, during the years 2001-2003.

Military Service: means service on active duty of one hundred eighty (180) or more days during the years 2001-2003 either served:
(1) in the Army, Navy, Air Force, Marines, or Coast Guard of the United States;or
(2) as a member of a national guard or reserve component of the same which has been activated by order of the Department of Defense.



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

**Proposed Lobster Trap Allocation Transfer and Lobster Trap Fishing
Business Sale Application Form**

Instructions:

1. Both Seller and Buyer must fill out all applicable information accurately and clearly.
2. Application form must be notarized prior to submission.
3. Seller must submit application form during June 1 – November 30.
4. Submit registration form to RI Division of Fish and Wildlife, Trap Transfer Program, 3 Fort Wetherill Road, Jamestown, RI 02835.

Part 1 – Transferor (Seller) Information:

Type of transfer/sale (check only one):

● TRAP TRANSFER:

NUMBER OF TRAPS TRANSFERRED: _____

(Minimum of 50 traps and in units of 10 traps)

Less

10% CONSERVATION TAX (10% of traps transferred): _____

Total Transfer _____

● TRAP FISHING BUSINESS SALE:

NUMBER OF TRAP TAG ALLOCATION SOLD: _____

(Sale of a Lobster Trap Fishing business must include transfer or surrender of State of RI fishing license and transfer of Federal Lobster Permit).

Less

10% CONSERVATION TAX (10% of traps allocated): _____

Total Transfer _____

Seller's Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Boat Name: _____

RI Boat Registration / Federal Documentation Number: _____

Home Port : _____

RI Commercial Vessel Decal Number: _____

Federal Lobster Permit Number: _____

Boat Length (LOA, length overall) : _____
Boat Motor Horsepower: _____

Seller's Signature: _____ Date: _____
Notary Public Signature: _____ Date: _____

Part 2 – Transferee (Buyer) Information:

Type of transfer/sale (check only one):

● TRAP TRANSFER:

TOTAL NUMBER OF TRAPS RECEIVED: _____
(After 10% Conservation Tax is applied)

● TRAP FISHING BUSINESS SALE:

TOTAL NUMBER OF TRAP TAG ALLOCATION BOUGHT: _____
(After 10% Conservation Tax is applied)

Buyer's Name: _____
Street Address: _____
City: _____ State: _____ Zip Code: _____

Boat Name: _____
RI Boat Registration / Federal Documentation Number: _____
Home Port : _____

RI Commercial Vessel Decal Number: _____
Federal Lobster Permit Number: _____
Boat Length (LOA, length overall) : _____
Boat Motor Horsepower: _____

Buyer's Signature: _____ Date: _____
Notary Public Signature: _____ Date: _____

=====

For Official Use Only:

☐ APPROVED

☐ DENIED

Deputy Chief, Marine Fisheries

Date



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

PROPOSED
Rhode Island / Area 2 Lobster Trap Allocation
Application Form

Instructions:

1. To be considered for an Area 2 Lobster Trap Allocation or multiple Area 2 Lobster Trap Allocations, applicants must fill out all required information accurately and clearly for each Area 2 Lobster Trap Allocation being requested. If applying for multiple Area 2 Lobster Trap Allocations, use a separate application form for each Area 2 Lobster Trap Allocation being requested.
2. The application period for consideration of an Area 2 Lobster Trap Allocation shall be during May 1 – September 30, 2006. No applications shall be processed after September 30, 2006.

*** *Required information***

* Applicant Name: _____

* Address: _____

* Phone Number: _____

* RI Commercial Fishing License Number: _____

Federal Lobster Permit Number (*If Applicable*): _____

* Vessel Name (If Not Named, Write N/A): _____

* RI Boat Registration **or** Federal Documentation Number: _____

* Signature: _____

* Date: _____